TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 233 - SB 327

March 16, 2015

SUMMARY OF BILL: Authorizes all dealers, when reporting and remitting sales taxes to the Department of Revenue, to retain a certain portion of such taxes in order to compensate for costs incurred in accounting for and remitting such taxes. Limits the deduction to a maximum of $25 per report, but establishes that such limitation does not apply to returns filed by any out-of-state person making sales in Tennessee who cannot be required to register for sales and use tax under applicable law, but who nevertheless voluntarily registers to collect and remit use tax on items of tangible personal property sold to Tennessee customers. Requires an amount equal to the excess of the amount calculated by the formula provided under current law, over and above the $25 limit, to be deposited in the General Fund.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Net Impact – $8,501,900/Recurring

Increase State Expenditures – $163,900/One-Time
$55,200/Recurring

Decrease Local Revenue – Net Impact – $26,047,900/Recurring

Assumptions:

- The proposed legislation will allow all dealers to deduct from the amount of sales tax due, reported and remitted to the Department of Revenue the following amount: 2 percent of the first $2,500 on each return, and 1.15 percent of the amount over $2,500 on each return.
- For taxpayers with sales tax nexus, this deduction is limited to a maximum of $25 per return, with the difference from the amount calculated by the formula above and the $25 limit being deposited to the state's General Fund. This limit will not apply to out-of-state entities making sales in Tennessee who cannot be required, but who nevertheless voluntarily register to collect and remit use tax on items of tangible personal property sold to Tennessee customers.
- It is assumed that the established dealers' compensation is based on the total sales tax due, reported and remitted and that both state and local sales tax collections are proportionally reduced.
- It is further assumed that the excess amount referred to in this bill includes both state and local sales tax, which will result in a portion of local sales taxes being allocated to the state's General Fund.

- The Department of Revenue reports that the deduction amount calculated using the formula above is equal to $110,094,328. Taking into account the established $25 limitation per return, the amount of the deduction is estimated to be $17,751,957, of which $13,366,179 is the state sales tax portion, and $4,385,778 is the local sales tax portion. These amounts represent decreases in state and local sales tax revenue, as these deductions would not be claimed under current law.
- The excess amount required to be deposited in the General Fund is estimated to be $92,342,371 ($110,094,328 - $17,751,957), of which $71,109,838 is the state sales tax portion, and $21,232,533 is the local sales tax portion. Since the bill requires the entire amount to be deposited to the state's General Fund, the local sales tax portion ($21,232,534) represents an increase in state revenue and a decrease in local revenue.
- The Department reports that, under current law, taxpayers collecting sales and use tax under the Streamlined Sales and Use Tax Agreement retain $257,809 in sales tax as compensation for costs incurred in accounting for and remitting sales taxes, of which $197,404 is the state sales tax portion, and $60,405 is the local sales tax portion. Under this bill, the amount retained by these taxpayers would be $51,876, of which $39,638 is the state sales tax portion, and $12,238 is the local sales tax portion. The resulting increases in revenue are estimated to be $157,766 ($197,404 - $39,638) for the state, and $48,167 ($60,405 - $12,238) for the local government.
- The effective rate of sales tax apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- The decrease in state-shared revenue, representing a decrease in local revenue and an increase in state revenue, is estimated to be $477,748 [($13,366,179 - $157,766) x 3.617%].
- The net recurring increase in state revenue as a result of this bill, beginning in FY15-16, is estimated to be $8,501,869 ($21,232,534 - $13,366,179 + $157,766 + $477,748).
- The net recurring decrease in local revenue as a result of this bill, beginning in FY15-16, is estimated to be $26,047,893 ($4,385,778 + $21,232,534 - $48,167 + $477,748).
- The Department of Revenue reports that the proposed legislation will result in one-time development expenditures of $158,600. Further the Department's Financial Control Division will require an additional position as sales tax is currently manually apportioned. The one-time expenditures associated with the position are estimated to be $5,300, with recurring expenditures of $55,170. The total one-time increase in state expenditures is estimated to be $163,900 ($158,600 + $5,300); the recurring increase in state expenditures is estimated to be $55,170.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Jeffrey L. Spalding, Executive Director

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